

SENATE THIRD READING

SB 239 (Arreguín)

As Amended July 2, 2026

Majority vote

SUMMARY

Authorizes the court to consider, as a factor in aggravation in sentencing a person for making criminal threats, that the defendant willfully threatened to commit a crime that would result in the death or great bodily injury of an elections official of a city, county, city and county, or public district, or an elected local agency official.

Major Provisions

- 1) States that any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for their own safety or for their immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison. (Penal. Code, Section 422, subdivision. (a).)
- 2) Provides that in sentencing a person convicted of making felony criminal threats, the court may consider, as a factor in aggravation, that the defendant willfully threatened to commit a crime that would result in death or great bodily injury of a person the defendant knew was a state constitutional officer, a Member of the Legislature, or a judge or court commissioner. (Penal. Code, Section 422, subdivision. (b).)
- 3) Makes a felony violation of Penal Code section 422 a "serious felony," and therefore a "strike" for purposes of Three Strikes sentencing. (Penal. Code, Section 1192.7, subdivision. (c).)
- 4) States that any person who with intent to annoy, telephones another or contacts him or her by means of an electronic device, and threatens to inflict injury on the person or the person's family, or to the person's property is guilty of a misdemeanor. (Penal. Code, Section 653m, subdivision. (a).)
- 5) Provides that every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon the officer by law, or who knowingly resists, by the use of force or violence, the officer, in the performance of his or her duty, is punishable as an alternate felony-misdemeanor. (Penal. Code, Section 69, subdivision. (a).)
- 6) States that every person who knowingly and willingly threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, or the staff, immediate family, or immediate family of the staff of any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or

Deputy Commissioner of the Board of Prison Terms, with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat by any means, is guilty of a public offense. (Penal. Code, Section 76, subdivision. (a).)

- 7) States that no person shall knowingly post the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child, on the internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. Punishes the crime as a misdemeanor, or a felony depending on the circumstances. (Penal. Code, Section 76.5.)
- 8) States that any person who commits assault upon specified public officials or attempts to commit murder against any of those specified officials in retaliation for or to prevent the performance of the victim's official duties, shall be punished by a felony, as specified. (Penal. Code, Section 217.1.)
- 9) Provides that when a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall in its sound discretion order imposition of a sentence not to exceed the middle term, except as specified. (Penal. Code, Section 1170, subdivision. (b)(1).)
- 10) Provides that the court may impose a sentence exceeding the middle term only when there are circumstances in aggravation of the crime that justify the imposition of a term of imprisonment exceeding the middle term and the facts underlying those circumstances have been stipulated to by the defendant or have been found true beyond a reasonable doubt at trial by the jury or by the judge in a court trial. (Penal. Code, Section 1170, subdivision. (b)(2).)
- 11) States that notwithstanding the presumption for the middle term, and unless the court finds that the aggravating circumstances outweigh the mitigating circumstances and that imposition of the lower term would be contrary to the interests of justice, the court shall order imposition of the lower term if the defendant experienced psychological, physical, or childhood trauma, is a youth (under age 26), or is or has been a victim of domestic violence or human trafficking. (Penal. Code, Section 1170, subdivision. (b)(6).)
- 12) Enumerates circumstances in aggravation, relating both to the crime and to the defendant, as specified. In addition, any other factors statutorily declared to be circumstances in aggravation or that reasonably relate to the defendant or the circumstances under which the crime was committed can be considered in aggravation. (Cal. Rules of Court, rule 4.421.)
- 13) Enumerates circumstances in mitigation, relating both to the crime and to the defendant, as specified. In addition, any other factors statutorily declared to be circumstances in mitigation or that reasonably relate to the defendant or the circumstances under which the crime was committed can be considered. (Cal. Rules of Court, rule 4.423.)
- 14) Defines "local agency official" to mean any member of a local agency legislative body and any elected local agency official. (Gov. Code, Section 53237, subdivision. (b).)
- 15) Prohibits any state or local agency from publicly posting the home address, telephone number, or the name and assessor parcel number associated with the home address of any

elected or appointed official on the internet without first obtaining the written permission of that individual. (Gov. Code, Section 7928.205, subdivision. (a).)

COMMENTS

According to the Author

According to the author, "In recent years, election officials and elected local agency officials (County Supervisors, Mayors, Council members, special district board members) across the U.S. have reported increased threats, harassment, and intimidation. Sometimes these threats have sadly escalated to violence and death. Last year, the Legislature passed, and the Governor signed into law AB 352, which amended Penal Code Section 422. The bill allows the court to consider as part of felony sentencing of the criminal threats statute as a factor in aggravation, that the defendant willfully threatened to commit a crime that could result in the death or great bodily injury of a judge or court commissioner, a state constitutional officer, or member of the Legislature. The reason for this change was the increase in threats against judges and state elected officials and the fear and intimidation caused.

"SB 239 would amend Penal Code Section 422 to also include election officials and local agency officials. SB 239 recognizes that threats against election officials and local public officials are not just attacks on individuals, they are attacks on the democratic institutions and public services that Californians rely on every day. This bill promotes public safety, strengthens confidence in our democratic process and recognizes the unique harm caused when threats are used to interfere with the functioning of government."

Arguments in Support

According to *California Contract Cities Associations*, "Over the past few years federal, state, and local elected officials have reported instances of grave threats, harassment, and intimidation at alarming levels. In 2025, the Legislature passed AB 352 (Pacheco), Chapter 554, Statutes of 2025, to address the issue, which allows for harsher sentencing when an individual is making threats against state officials that could result in death or great bodily injury. SB 239 expands upon AB 352, ensuring that offenders could face similar sentencing when threatening local elected officials, including County election officials, City election officials, and other local agency officials. We applaud Senator Arreguin for his leadership on this important issue, as it is critical that elected officials at all levels of government are given special recognition under this state law as a means of protecting their welfare and strengthening public safety."

Arguments in Opposition

No longer applicable.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Potential increase in state incarceration costs (General Fund) of an unknown, but potentially significant amount, to the extent the new aggravating factor results in imposition of the upper term rather than the middle term in felony criminal threats cases involving the specified officials. Because felony criminal threats is a serious felony, defendants sentenced to imprisonment serve those terms in state prison rather than county jail, so any marginal

increase in sentence length accrues to the California Department of Corrections and Rehabilitation (CDCR). The annual incidence of felony convictions for threats against elections officials or elected local agency officials in California is unknown, but data from CDCR shows 590 new felony admissions in 2025 for which criminal threats was the primary offense. The Legislative Analyst's Office estimates the average annual cost to incarcerate one person in state prison is \$133,000. If even two people serve an additional one year each in prison because of this bill, the resulting incarceration costs to CDCR would exceed this committee's Penal threshold. Actual costs will Penal on the number of relevant offenses, whether the factor is admitted or found true beyond a reasonable doubt, and judicial discretion in selecting the term.

- 2) Potential court cost pressures (Trial Court Trust Fund) of an unknown, but likely minor amount, to the extent pleading and proving the new aggravating factor to the trier of fact marginally lengthens some trials and sentencing proceedings.

VOTES

SENATE FLOOR: 29-11-0

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Caballero, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ASM PUBLIC SAFETY: 9-0-0

YES: Schultz, Alanis, Mark González, Haney, Harabedian, Lackey, Nguyen, Ramos, Sharp-Collins

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Arambula, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

UPDATED

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